FILED IN OPEN COURT SEP 16 2016 CLERK, U.S. DISTRICT COURT ALEXANDRIA, VIRGINIA

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO.: 1:16CR124
	)	
MOHAN L. NIRALA,	)	Judge Gerald Bruce Lee
Defendant.	)	

STATEMENT OF FACTS

The United States and the defendant, Mohan L. Nirala, stipulate that the allegations in Count Three of the Indictment and the following facts are true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt.

1. The defendant, Mohan L. Nirala, was a full-time government employee and imagery scientist at the United States National Geospatial-Intelligence Agency (NGA). Nirala was employed in this capacity in the Eastern District of Virginia from February 2009, until he was suspended on January 2, 2014 and terminated in 2015. As a condition of his employment at NGA, Nirala signed Classified Information Nondisclosure Agreements where he agreed not to retain classified information outside his secure workplace. He confirmed in writing that "the unauthorized disclosure, unauthorized retention, or negligent handling of classified information by me could cause damage or irreparable injury to the United States . . . ." Nirala signed these agreements on March 2, 2009.

2. Nirala worked at NGA's headquarters in Springfield, Virginia. NGA is the nation's primary source of geospatial intelligence, or GEOINT, for the Department of Defense and the United States Intelligence Community. As a Department of Defense combat support agency

and a member of the Intelligence Community, NGA provides GEOINT in support of United States national security and defense, as well as disaster relief. GEOINT is the exploitation and analysis of imagery and geospatial information that describes, assesses, and visually depicts physical features and geographically referenced activities on Earth.

3. On September 11, 2013, NGA Security personnel were notified that Nirala had included classified information in the submission of an Equal Employment Opportunity (EEO) complaint. The EEO counselor attempted to work with him to have the classified material removed or redacted for several months, but ultimately remained concerned about Nirala's continued mishandling of classified information.

4. On January 2, 2014, Nirala signed two Classified Information Nondisclosure Agreements when his clearances were suspended. Nirala's signature appears beneath the acknowledgement "I reaffirm . . . that I have returned all classified information in my custody . . . ."

5. Eight days later, on January 10, 2014, a federal search warrant was executed on Nirala's residence. The search recovered over 20 classified documents, five that contained classification markings. An OCA review by NGA determined the documents ranged in classification from SECRET to TOP SECRET. One classified document bore evidence of an attempted obliteration by hand of the classification markings. The documents had dates from November 8, 2011 through July 18, 2013 and were removed from Nirala's place of work in the Eastern District of Virginia. Nirala's residence is not an approved location for classified documents from NGA.

6. During the January 10, 2014 search of Nirala's residence, Nirala falsely stated to FBI special agents that he did not bring any classified documents home, when in truth and in fact, as Nirala then and there knew, he had removed documents classified by the United States government from his authorized place of work and stored them at unauthorized locations inside his home and elsewhere.

7. On March 8, 2016, the FBI executed an arrest warrant charging Nirala with a violation of 18 U.S.C. § 793(e). FBI special agents went to Nirala's residence in Laurel, Maryland to execute the arrest warrant. The agents knocked and announced with words to the effect "FBI, we have a warrant, come to the door." After several more knock and announces, Mr. Nirala responded "Hold on. Hold on." FBI agents again repeated instructions for compliance; however, these attempts were met with silence. FBI special agents proceeded to make a forced entry after receiving no further responses. When agents opened the basement door, Nirala exited the basement staircase and was taken into custody without further incident.

7. During a protective sweep of the basement, FBI special agents observed a large white duct-taped FedEx box underneath the unfinished basement stairs. The FBI subsequently sought and obtained a federal search warrant for the contents of the seized FedEx box. Inside the box, the FBI discovered 349 pages of documents which bore a classified banner and portion markings at the TOP SECRET level and another 189 pages which were marked at the SECRET level. Many of the documents also had markings indicating that they contained Sensitive Compartmented Information. These documents were removed from Nirala's work space at NGA in Springfield, Virginia, without authorization. Comingled with these marked classified documents was a copy of the 2014 federal search warrant which had been previously executed

on his residence.

8. The marked classified material willfully retained by Nirala contains sensitive intelligence sources and methods involving the exploitation and analysis of imagery and geospatial (e.g. mapping, charting, and geodesy) information used to describe, assess, and visually depict physical features and geographically referenced activities on Earth. Count Three charges the unlawful retention of a TOP SECRET document, which contains classified images, emails, and a presentation drafted by Nirala. The document, in part, is properly classified by Nirala himself. The material is properly classified at the TOP SECRET level, as its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security of the United States.

9. This statement of facts includes those facts necessary to support the plea agreement between the defendant and the government. It does not include each and every fact known to the defendant or the government, nor is it intended to be a complete enumeration of all of the facts surrounding the defendant's case.

10. The actions of the defendant as recounted above were in all respects knowing and deliberate, reflecting an intention to commit the crime of willful retention of national defense information, and were not committed by mistake, accident, or other innocent reason.

Respectfully submitted,

Dana J. Boente
United States Attorney

By: ______________________________

Ronald L. Walutes, Jr.
Assistant United States Attorney
Brandon L. Van Grack
Trial Attorney, National Security Division

After consulting with my standby counsel and pursuant to the plea agreement entered into this day between the defendant, Mohan L. Nirala, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Mohan L. Nirala
Defendant

I am Mohan L. Nirala's standby counsel. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Alan Yamamoto, Esquire
Todd Richman, Esquire
Standby Counsel for Mohan L. Nirala